

**MINUTES**  
**INDIANA STATE BOARD OF DENTAL EXAMINERS**

**MAY 7, 2010**

**I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Dr. Miller called the meeting to order at 8:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

**Board Members Present:**

Matthew Miller, D.D.S., President  
Jill Burns, D.D.S., Vice President  
Steven Hollar, D.D.S., Secretary  
Charles Heape, D.D.S.  
Theodore Rokita, D.D.S.  
Laverne Robison Whitmore, L.D.H., B.S.  
Clance LaTurner, Consumer Member  
Gary Haller, D.D.S.  
Philip Catey, D.D.S.  
Richard T. Newton, D.D.S.

**State Officials Present:**

Cindy Vaught, Board Director, Professional Licensing Agency  
Heather Hollcraft, Assistant Board Director, Professional Licensing Agency  
Jim Schmidt, Deputy Attorney General, Office of the Attorney General

**II. ADOPTION OF THE AGENDA AS AMENDED**

A motion was made and seconded to adopt the agenda, as amended.

HOLLAR/La TURNER  
Motion carried 10-0-0

**III. ADOPTION OF MINUTES FROM THE FEBRUARY 5, 2010 MEETING**

A motion was made and seconded to adopt the minutes, as corrected, from the February 5, 2010 meeting of the Board.

LaTURNER/NEWTON  
Motion carried 10-0-0

**IV. APPEARANCE**

**A. APPLICATIONS**

There were no applications before the Board.

**B. PROBATIONARY**

1. **Michael Edward Bajza, D.D.S., License No. 12009652A**  
Administrative Cause No. 2005 DB 0011

Dr. Bajza appeared before the Board, as requested regarding his ongoing probationary status. Dr. Bajza indicated to the Board that he has not met with his mentor yet, but has an appointment to do so today. He explained that he has been trying to contact him since the last meeting. Dr. Burns assured the board that she has been in contact with Dr. Brown and he indicated he has been in contact with Dr. Bajza. Dr. Bajza stated he has not completed any community service since his last appearance and has not completed any of the required continuing education, but is up to date for his dental license. Dr. Burns stated he has completed 16 of the required 200 hours of community service. Dr. Bajza is not currently employed. When the Board asked what he is doing day to day, he explained that he is helping take care of father that is ill.

2. **Edward T. Mamaril, D.D.S., License No. 12008594A**  
Administrative Cause No. 2008 ISDB 0001

Dr. Mamaril appeared before the Board, as requested, regarding his ongoing probationary status. The Board asked if he had completed his investigation of the discrepancies on his INPSECT report. Dr. Mamaril submitted a copy of the INSPECT report and patient charts for the two (2) patients in question. The Board questioned how the same prescription was filled twice for one patient. Dr. Mamaril explained that there were two (2) prescriptions on the report but one was for the day the prescription was written and the other was for the refill on that prescription that the patient had done the same day. When asked the clinical reason for that prescription, he said it was due to removing fourteen (14) maxillary teeth for immediate upper dentures and felt the patient would have more than a few days of pain so he prescribed the twenty-four (24) tablets with one (1) refill. Dr. Hollar noted Dr. Mamaril has changed his halcion prescribing from six (6) to four (4) tablets with no refills. Dr. Mamaril explained his halcion regiment is to prescribe four (4) tablets and to have the patient take two (2) tablets one (1) hour prior to appointment. They are given written instructions on how to take halcion, not to eat after midnight and to not drive themselves to the office and then to go home and sleep it off. Dr. Mamaril asks his patients to bring in bottle with remaining tablets based on his experience that if the patient is tolerant of halcion they will ask the patient to take a third pill, monitor with pulse oximeter, that then sets the basis of what the dose will be for that particular patient. Dr. Mamaril stated sometimes the .5 milligrams is sufficient. Dr. Hollar asked about the extra tablets. Dr. Mamaril explained the patient uses the extra tablet for the second visit. The Board still questions the number of pills Dr. Mamaril is prescribing. The Board advised him to re-evaluate his prescribing practices and

cautioned him on over prescribing. Dr. Mamaril presented his March controlled substance registration log and proof of completion of the continuing education programs he has completed. The Board asked Dr. Mamaril to appear at the June meeting of the Board.

**3. Philip Ray Travis, D.D.S., License No. 12011406A**  
Administrative Cause No. 2010 ISDB 0003

Dr. Travis did not appear before the Board, as requested, regarding his ongoing probationary status. He submitted a letter to the Board as to why he would not be appearing.

**Board Action.** After discussion, the Board voted to issue an Order To Show Cause as to why his license should not be suspended for noncompliance of his probationary order.

Hollar/Haller  
Motion carried 10/0/0

**C. RENEWAL**

**1. DENTIST**

**a. Mathew B. Kavanaugh, D.D.S., License No. 12010783A**

Dr. Kavanaugh was rescheduled to appear from the April 9, 2010 meeting based upon not having the required continuing education to renew his license. Dr. Kavanaugh presented the hours required hours of continuing education, but the Indiana ethics continuing education was completed outside of March 1, 2010. Dr. Kavanaugh only presented fourteen (14) hours at the April meeting.

**Board action:** A motion was made and seconded to renew Dr. Kavanaugh's dental license with a \$1,000.00 civil penalty to be paid within twenty-one (21) days to Indiana Professional Licensing Agency for non-compliance of the renewal for March 1, 2010.

HOLLAR/BURNS

The motion was amended and seconded to renew Dr. Kavanaugh's dental license on conditional status with a civil penalty of \$100.00 to be paid within twenty-one (21) days to the Indiana Professional Licensing Agency for non-compliance of the continuing education requirements.

HOLLAR/BURNS  
Motion carried 10-0-0

**b. Emery John Spisak, Jr., D.D.S., License No. 12006332A**

Dr. Spisak appeared before the Board, as requested, regarding the positive response on his renewal application. Dr. Spisak answered "yes" to question 4 that ask "Since you last renewed, have you had a malpractice judgment against you or settled a malpractice action?" He explained that he provided treatment to a patient for a fractured molar crown. He stated the patient had problems with infection so he prescribed penicillin. The patient had an allergic reaction to the medication. Patient went to the emergency room due to the reaction. Insurance settled the malpractice claim. Dr. Spisak submitted copies of continuing education to the Board. The Board is concerned he did not complete the continuing education until April 8, 2010 and April 12, 2010 which was after the renewal period. Dr. Spisak explained he has been going through personal issues. When asked if he had completed any continuing education in 2008 and 2010, he answered no. The Board asked how many times he has been before the Board previously, he said twice for very similar reasons. Dr. Hollar asked if Dr. Spisak has read and understands the statutes and rules for dentistry in which he stated as far as he knows.

**Board action:** A motion was made and seconded to neither renew or deny the renewal of Dr. Spisak's license but to refer this matter to the Office of the Attorney General for further investigation. A civil penalty of \$1,000.00 was assessed for the noncompliance of continuing education.

BURNS/HOLLAR  
Motion carried 10-0-0

**c. Eric Lamont Treadwell, D.D.S., License No. 12009983A**

Dr. Treadwell was rescheduled to appear today after his appearance before the Board on April 9, 2010 based upon not having the required continuing education to renew his license. Dr. Treadwell has completed a course in Indiana ethics and jurisprudence through the Indiana Dental Association on April 27, 2010.

**Board action:** A motion was made and seconded to grant the renewal of Dr. Treadwell's dental license on conditional status with a \$100.00 civil penalty to be paid within twenty-one (21) days to Indiana Professional Licensing Agency for non-compliance of the continuing education requirement.

BURNS/HOLLAR  
Motion carried 10-0-0

**V. ADMINISTRATIVE HEARINGS**

- 1. State of Indiana vs. Raymond A. Burris, D.D.S., License No. 12006355A**  
Administrative Cause No. 2009 ISDB 0010  
Re: Complaint

**Parties and Counsel Present:**

Respondent was present with counsel, Melissa J. Wray  
Mark Mader, Deputy Attorney General for the State of Indiana  
Sherry Rutledge, Court Reporter

**Participating Board Members:**

Dr. Miller, D.D.S., President (Hearing Officer)  
Dr. Hollar, D.D.S.  
Dr. Burns, D.D.S.  
Dr. Heape, D.D.S.  
Ms. LaTurner, Consumer Member  
Ms. Whitmore, L.D.H., B.S.  
Dr. Rokita, D.D.S.  
Dr. Haller, D.D.S.  
Dr. Newton, D.D.S.  
Dr. Dr. Catey, D.D.S.

**Case Summary:** Respondent appeared, with counsel, regarding a complaint filed by the Indiana Office of the Attorney General. At this time Mr. Mader presented a Proposed Settlement Agreement to the Board for review.

The Terms and Conditions of the Proposed Agreement read as follows:

1. Respondent's Indiana dentistry license is hereby placed on **INDEFINITE PROBATION**. Respondent may not seek to petition for withdrawal of probation until five (5) years from the date of this Order. Respondent agrees he will not seek to modify any term of this Agreement unless the term for which he seeks modification contains a specific provision allowing him to do so. While his license is on probation, Respondent's practice of dentistry shall be governed by the following:

- A. Respondent shall keep the Board informed of his residential address and telephone number at all times;
- B. Respondent shall keep the Board informed of his office address and telephone number at all times;
- C. Respondent shall submit a copy of this Order to any employer and cause said employer to sign the Order and return it to the Board within seven (7) days, unless Respondent is self employed;
- D. Unless Respondent is self employed, Respondent will cause his employer to submit reports to the Board indicating his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others. Said reports are to be submitted on a monthly basis for the first year of probation and quarterly thereafter;
- E. Respondent shall maintain his Aftercare Contract with the IDA throughout the entire period of probation;
- F. Respondent shall adhere to all terms and conditions of his Aftercare Contract with the IDA which are hereby incorporated into this Order;
- G. Respondent will immediately notify the Board of any relapse;
- H. Respondent shall provide the Board, if it determines one to be necessary, with a standing order from a physician for random urine screens;

- I. Respondent shall undergo monthly random urine drug screens and/or blood screens at the Respondent's expense, at the direction of the monitor of his Aftercare Contract and submit monthly reports of the results to the Board. UDS's shall be initiated by the monitor of his Aftercare Contract;
  - J. Respondent shall make monthly appearances before the Board for the first year of his probation and quarterly thereafter;
  - K. Respondent shall not work more than ten (10) hours per day or forty (40) hours per week, unless his Aftercare Contract monitor consents;
  - L. Respondent shall comply with all statutes and rules regarding the practice of dentistry;
  - M. Respondent shall submit proof of completion of five (5) hours of community service every three (3) months for the duration of his probation;
  - N. Respondent shall complete twelve (12) hours of continuing education within three (3) months of the Board's Final Order in this matter which shall include a course in ethics in addition to his biennial continuing education requirements and provide certified documentation of completion to the Board;
  - O. Respondent shall pay a fine of Two Hundred Fifty Dollars (\$250.00) to the Indiana Professional Licensing Agency within ninety (90) days of the Board's final order in this matter.
- 2. The Board shall have continuing jurisdiction over this matter.
  - 3. Respondent shall certify to the Board that he has read and understands the statutes and rules governing the practice of dentistry at such time as he petitions the Board to remove these probationary terms from his license.
  - 3. Respondent further understands that failure to comply with the Board's order may result in the State requesting an emergency suspension of Respondent's license, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Ind. Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license. Respondent further agrees to abide by all statutes, rules, and the laws regarding the regulation of his profession.

**Board action:** A motion was made and seconded to accept the settlement agreement as written.

Hollar/Newton, 10/0/0

Dr. Burris was requested to also appear regarding his application for renewal. He responded positive to the following questions: 1. Has any Health Profession license, certificate, registration, or permit you hold or have held been disciplined *or* are formal charges pending? and 5. Have you been denied staff membership or privileges in any hospital or clinic or, have staff membership or privileges been revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitations? The positive responses were based upon the action taken by the Board on this date. Dr. Burris stated he was unable to find his file with his continuing education certificates which contained over thirty (30) years of continuing education certificates. Dr. Burris was unable to produce proof of continuing education for the renewal period.

**Board Action:** A motion was made and seconded to renew Dr. Burris' dental license conditionally with a \$1,000.00 civil penalty to be paid within twenty-one (21) days to the Indiana Professional Licensing Agency and completion of continuing education within six (6) months for non-compliance of the continuing education requirement.

BURNS/HOLLAR  
Motion carried 10-0-0

2. **State of Indiana vs. Bryan Eugene Spilmon, D.D.S., License No. 12008986A**  
Administrative Cause No. 2010 ISDB 0004  
Re: Petition for the Withdrawal of Probation

**Parties and Counsel Present:**

Respondent was present with counsel, Lorie Brown  
Mark Mader, Deputy Attorney General for the State of Indiana  
Terry Richmond, Deputy Attorney General for the State of Indiana  
David Fleischhacker, Deputy Attorney General for the State of Indiana  
Sherry Rutledge, Court Reporter

**Participating Board Members:**

Dr. Miller, D.D.S., President (Hearing Officer)  
Dr. Hollar, D.D.S.  
Dr. Burns, D.D.S.  
Dr. Heape, D.D.S.  
Ms. LaTurner, Consumer Member  
Ms. Whitmore, L.D.H., B.S.  
Dr. Rokita, D.D.S.  
Dr. Haller, D.D.S.  
Dr. Newton, D.D.S.  
Dr. Catey, D.D.S.

The Board considered a motion filed by the State, State's Motion in *Limine*. Dr. Miller stated the motion was denied. The State requested the motion to be considered by the full Board.

**Board Action:** A motion was moved and seconded to support the President's ruling and upon advice of legal counsel to deny the State's motion.

LaTurner/Newton  
Motion carried 7/3/0

**Case Summary:** On or about March 2, 2010 the Indiana Office of the Attorney General filed a Amended Complaint against the Respondent. The complaint consisted of three (3) counts against Respondent. Count 1 states Respondents actions constitute a violation of IC 25-1-0-4(a)(3) in that he has knowingly violated any state statute or rule or federal statute or regulation regulating the profession in question, to wit: 828 IAC 1-1-15: taking TMJ and cephalometric x-rays on virtually all patients (in addition to bite wing and panoramic x-rays) despite the fact that these TMJ and cephalometric x-rays were not medically necessary and reasonable and the justification for these additional x-rays was not

documented, as well as performing other dental procedures that were not medically necessary and reasonable and/or were not documented in the patient's dental record. Count 2 states Respondents conduct constitutes a violation of IC 25-1-9-4(a)(2) in that Respondent has been convicted of a crime that has a direct bearing on his ability to continue to practice<sup>3</sup> competently, to wit: Twelve (12) counts of Health Care Fraud and one (1) count of money Laundering; 18 USC 1347, 2 and 18 USC 1957, 2. Count 3 states Respondent's actions constitute a violation of IC 25-1-9-4(a)(1)(B) in that he has engaged in fraud or material deception in the course of professional services or activities, to wit: Respondent directed that fraudulent billing claims for services be sent to Indiana Medicaid and/or its contracted representative for payment for services never performed, not medically necessary or reasonable, not documented or justified in the patient's chart, added to the patient's treatment/billing sheet after the fact or could not properly be billed when the procedure was done in conjunction with other dental procedures. Respondent's failure to comply with the referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed in IC 25-1-9-9 and IC 25-14-1-13.

The State entered the following Exhibits into evidence:

1. Petition to Enter Guilty Plea (certified copy)
2. Change of Plea Proceedings
3. Final Order of Forfeiture
4. U.S. District Court Memorandum Opinion and Order
5. U.S. district Court Criminal Judgment 3:04 CR 0070 AS
6. U.S. vs. Spilmon 454 F. 3d 657 C.A. 7 (Ind.), 2006
7. Bryan E. Spilmon, et al., Petitioners vs. U.S. 127 S.Ct.607; 166 L. Ed. 2d 432; 2006 Petition for Certiorari – denied
8. Treatment Protocol for Adolescents Signed by Ronald E. Decker on November 28, 2001
9. Partial First Year Compensation Agreement Signed by Steve Regan, D.D.S., and Respondent July 15, 2003
10. Application for a License to Practice Dentistry
11. ADC Charging Summary Sheet
12. Online Renewal Application
13. Sweatland Mobile Dental Services Treatment Billing Records
14. Provider Ranking Information
15. Sentencing Memorandum U.S. vs. Spilmon
16. Affidavit of James L. Brown, D.D.S.
17. Deckard Field Report
18. Deckard Treatment Protocol ADC/Spilmon
19. Deckard April 1, 2002 to March 31, 2003 Bonus
20. Regan Interview Report
21. Regan 1<sup>st</sup> Year Compensation Agreement
22. Not entered
23. Field Investigative Notes from Lisa Sweatland
24. Adjustment in Medicaid Payments by ADC
25. Affidavit from Kenneth Slis

The State's witness list consisted of:



1. James Brown, D.D.S. – Dr. Brown treated a patient two (2) years prior to Advance Dental Consulting, Inc. (ADC) and then three (3) months after ADC completed their work. ADC billed Medicaid approximately \$2,338.00 for treatments allegedly provided to the patient. Dr. Brown testified the work completed by ADC was unnecessary.
2. Anne Chandler – Ms. Chandler is the parent to the above referenced patient.
3. Matthew Haller, D.D.S. – Dr. Haller had examined two (2) children before and after ADC treated them. Dr. Haller reviewed x-rays completed by him that indicated there was no medical need for an Indirect Pulp Cap on any of the fillings done on either child by ADC (for which ADC billed Medicaid).
4. Steve Dixon, D.D.S. – Dr. Dixon is considered an expert in his field as he holds the position of Comprehensive Care Clinic Director at the Indiana University School of Dentistry and has been in private practice for 20-plus years. Dr. Dixon indicated it would be extremely rare to find in children or adolescents the need for the dental procedures ADC billed for its purported work with the Medicaid patients (children).
5. Karine Davis – Mother of a patient that received a letter from the Allen County DFC regarding the receipt of a free CD player and a \$20.00 Wal-Mart card if she brought her son to a free screening offered by ADC.
6. Ronald Deckard, D.D.S. – Dr. Deckard worked for Respondent from 2001 through April 2003. Dr. Deckard told investigators Respondent would only take Medicaid patients and he “was all about the money.”
7. Stephen Daniel Regan, D.D.S. – Dr. Regan confirmed he performed no oral biopsies on patients while he was the treating dentist at the mobile dental unit yet billings records show 188 biopsies were billed from July through October 2003.
8. Michael Hillegas – Mr. Hillegas is the parent of a Medicaid patient. He filed a complaint with the Indiana Medicaid Fraud Control Unit (MFCU) concerning his daughter who received treatment on or about February 27, 2002. The billing showed Respondent billed for 18 procedures that Mr. Hillegas felt he had not performed most of.
9. Kim Deterling – Ms. Deterling is a dental assistant formerly employed by Respondent.
10. Baysah Korti – Mr. Korti is the parent of three patients that all had dental work done by ADC in 2003. Each child received a CD Walkman and \$20.00 Wal-Mart gift certificate following the procedures, consistent with a letter they had received from ADC advertising a free dental screening.
11. Connie Pitner – Ms. Pitner is a Medicaid field consultant.
12. Kenneth Slis – Mr. Slis was formerly employed by Respondent. He was responsible for Medicaid billings for Respondent’s companies.
13. Roland Slyby, D.D.S. – Dr. Slyby stated he saw two patients before they saw the dentist at ADC. Dr. Slyby then did a follow-up visit with the patients, where he noticed ADC had done unnecessary work on the patients.
14. Tim Stone – Mr. Stone was formerly employed by Respondent. He was responsible for transporting the mobile dental office of Respondent.
15. Lisa Sweatland – Ms. Sweatland is an MFCU investigator in Respondent’s Medicaid Fraud case, 3:04CR70 AS.

16. Jyl Trump – Ms. Trump is a dental hygienist formerly employed by Respondent.
17. Sandy Weston – Ms. Weston is an MFCU investigator in Respondent's Medicaid Fraud case, 3:04CR70AS.

Ms. Brown entered into evidence the following Defense Exhibits:

1. Petition to Enter a Guilty Plea
2. Indiana Health Coverage Programs Provider (IHCPP) Manual Section 4:Dental Claim Form Billing Instructions, Table 8.45 select pages
3. United States' Opposition to Defendants' Motion to Withdraw Guilty Pleas, Page 28
4. ADA CDT Manual, Page 118, Definition of Filling
5. Guide to Children's Dental Care in Medicaid, October 2004, Select Pages
6. JADA, Volume 136, April 2005, Gordon Christensen, DDS, MSD, PhD, "The Major Part of Dentistry You May be Neglecting"
7. Affidavit of Kenneth Slis (Billing Agent)
8. Superseding Indictment, Pages 11 and 17
9. 4 Oral Brush Biopsy Oral CDX Test Reports: Atypical epithelial cells-warranting further investigation
10. Oral CDX Billing and Reimbursement Information for Office Reference
11. Indiana Health Coverage Programs Banner BR200121
12. Quotes from Health & Human Services and the office of Inspector General stating billing errors are not a violation of fraud laws.
13. Letter from Oral CDX
14. Healthy People 2010 Oral health, Section 21-7, 2 of 42, 27 of 42
15. General Dentistry, January – February 2000, Dore Eisen, MD, DDS, "the oral brush biopsy: A new reason to screen every patient for oral cancer"
16. Important Message Bout Oral Cancer from the ADA
17. Dimensions of Dental Hygiene, November 2006, Sol Silverman, Jr., MA, DDS, discusses the incidence of lesion or deviations from normal evolving into malignancies
18. American Dental Association, CDT Manual, Page 144, Definition of Medically Necessary Care
19. Advanced Dental Consulting Letter from Ken Slis to EDS concerning billing for D0474, Accession of biopsied tissue
20. Indiana Health Coverage Program Bulletin BT 200250
21. Indiana Medicaid Update, January 16, 1998, Pages 12, 13
22. Inside Dentistry, May 2008, Kevin L. Williams, DMD and Derek Mahoney, BDS (Syd), MScOrth (Ion), DOrthRCS (Edin) "The Effects of Enlarged Adenoids on a Developing Malocclusion"
23. Peter Dawson, 2009 The Dawson Academy, "The 10 Must Know Factors of Occlusion"
24. Journal of Oral Rehabilitation 2007; 34:97-104, Howard E. Strassler, DMD "Reduction in para-functional activity: a potential mechanism for the effectiveness of splint therapy."
25. Inside Dentistry, June 2008, Gary M. De Wood, DDS, MS, Former Clinical Director and Director of Marketing and Publications The Pankey Institute "What Life Insurance and Night guards Have in Common – A practice Perspective"

26. Oral Health in America: A Report of the Surgeon General, Page 8 of 24
27. Defendants Response to U.S. opposition to Motion to Withdraw Guilty Pleas, C. The Factual Explanation of Item 7
28. Health and human Services & FDA 502(k) clearance for laser osseous surgery 12-Feb-02
29. ADA CDT Manual, Page 15, Procedure codes D4249 & D4260 osseous surgery defined.
30. X-tip Intraosseous Anesthesia Delivery System Technique Card
31. Email from Arthur "Kit" Weathers, DDS, Developer of the X-tip Intraosseous System
32. April 22, 2002, page from Dr. Spilmon's Daily Planner
33. Provider Remittance from Indiana Medicaid, Date of Services 5-30-02
34. Provider Remittance from Indiana Medicaid, Date of Service 6-5-02
35. Indiana Medicaid Dental Reimbursement Rates, page 1
36. Clinical Roundtable, "Questions: Should RMGI liners be used in the placement of direct composites?"
37. Indiana Health Coverage Programs Banner, BR 200104, January 23, 2001
38. Copy of notes from conversation with EDS consultants Clint and Gayle approving ADA code D3120, pup cap indirect to be used in conjunction with lower resin fee
39. Indiana health Coverage Programs Provider manual, Chapter 8, Section 6: Local Codes, page 8-274, 8-280
40. Provider Remittance from Indiana Medicaid, Date of Service 3-8-01
41. Provider Remittance from Indiana Medicaid, Date of Service 4-4-01
42. Provider Remittance from Indiana Medicaid, Date of Service 6-24-03
43. Provider Remittance from Indiana Medicaid, Date of Service 7-2-03
44. ADA CDT Manual, Page 14, Procedure Code 3 4211 Gingivoplasty see code 4210 definition
45. Cover of September 2001 Health Coverage Programs Seminar Handout
46. Provider Remittance from Indiana Medicaid, Date of Service 10-22-01
47. Provider Remittance from Indiana Medicaid, Date of Service 10-29-01
48. Indiana health Coverage Programs Bulletin BT200141
49. Indiana health Coverage Programs provider Manual, Chapter 2, Section 5: retro-Active Eligibility
50. Letter from probation Office
51. Certificates of Continuing Education

The Defense's witness list consisted of:

1. Bryan Spilmon, DDS – Respondent
2. Diane Spilmon – Wife of Respondent
3. Paul Reifor – Mr. Reifor is the attorney that represented Respondent in the 'withdraw of the guilty plea' proceeding.
4. Ken Slis – Mr. Slis is the former billing and transcription agent for ADC and the brother-in-law of Respondent.
5. Tim Stone – Mr. Stone was the facilities manager of the mobile dental office.
6. Jyl Trump – Ms. Trump is a dental hygienist previously employed by Respondent.
7. Connie Pitner – Ms. Pitner is an EDS Dental Field Consultant.
8. Jo Melloh – Ms. Melloh is an EDS Dental Field Consultant.

9. Roger Peugh – Mr. Peugh is a seminary professor that did counseling with Respondent and his wife regarding whether he should please guilty or not.

**Count 1 states** Respondents actions constitute a violation of IC 25-1-0-4(a)(3) in that he has knowingly violated any state statute or rule or federal statute or regulation regulating the profession in question, to wit: 828 IAC 1-1-15: taking TMJ and cephalometric x-rays on virtually all patients (in addition to bite wing and panoramic x-rays) despite the fact that these TMJ and cephalometric x-rays were not medically necessary and reasonable and the justification for these additional x-rays was not documented, as well as performing other dental procedures that were not medically necessary and reasonable and/or were not documented in the patient's dental record.

**Count 2 states** Respondents conduct constitutes a violation of IC 25-1-9-4(a)(2) in that Respondent has been convicted of a crime that has a direct bearing on his ability to continue to practice competently, to wit: Twelve (12) counts of Health Care Fraud and one (1) count of money Laundering; 18 USC 1347,2 and 18 USC 1957, 2.

**Count 3 states** Respondent's actions constitute a violation of IC 25-1-9-4(a)(1)(B) in that he has engaged in fraud or material deception in the course of professional services or activities, to wit: Respondent directed that fraudulent billing claims for services be sent to Indiana Medicaid and/or its contracted representative for payment for services never performed, not medically necessary or reasonable, not documented or justified in the patient's chart, added to the patient's treatment/billing sheet after the fact or could not properly be billed when the procedure was done in conjunction with other dental procedures.

Count 1- The Board finds Dr. Spilmon in violation.

**Board action:** A motion was made and seconded to find Dr. Spilmon in violation of Count 1.

NEWTON/HEAPE  
Motion carried 10-0-0

Count 2- The Board finds Dr. Spilmon in violation.

**Board action:** A motion was made and seconded to find Dr. Spilmon in violation of Count 2.

BURNS/CATEY  
Motion carried 10-0-0

Count 3- The Board finds Dr. Spilmon in violation.

**Board action:** A motion made and seconded to find Dr. Spilmon in violation of count 3.

HALLER/ROKITA  
Motion carried 10-0-0

**Board action:** A motion was made and seconded to revoke the dental license of Dr. Spilmon and to impose a fine of \$3,000.00 payable to the Board within thirty (30) days after the issuance of the final order and costs incurred by the State and the Indiana Professional Licensing Agency. The Indiana Professional Licensing Agency and the State of Indiana shall have twenty (20) days from the date of the final order entered herein to claim its allowable costs incurred in this action. Respondent shall have forty (40) days from the date of the final order to object to any specific cost claimed by the State of the Indiana Professional Licensing Agency. Absent any objection the costs claimed by the State of Indiana and the Indiana Professional Licensing Agency shall be paid by Respondent forty (40) days from the date of the final order. If there is an objection, the Board shall make a determination regarding the costs.

HEAPE/NEWTON  
Motion carried 10-0-0

#### **VI. NOTICE OF PROPOSED DEFAULT**

There were no notices of proposed default before the Board.

#### **VII. OLD/NEW BUSINESS**

There was no old or new business to discuss before the Board.

#### **VIII. DISCUSSION**

- Ms. Vaught told the Board the notice of intent for the dental rules was published on April 28, 2010. There is the potential for the public hearing to be held on August 6, 2010.
- Ms. Whitmore asked when license renewal comes up she would like the Board to re-word some of the questions on the renewal form.

#### **IX. APPLICATION REVIEW**

##### **A. Examination**

There were no applications by examination to review.

##### **B. Endorsement**

###### **1. David S. Kilgore, D.D.S.**

Dr. Kilgore's application for dental licensure by endorsement was reviewed. Dr. Kilgore is a 1989 graduate of Ohio State University and is licensed in the states of Ohio and Pennsylvania. He has taken and passed Part I and II of the National Boards and the Ohio state constructed examination. Dr. Kilgore responded positive to question #1 on the application: Has disciplinary action ever been taken regarding any health license, certificate, registration or permit

that you hold or have held?. Dr. Kilgore has been disciplined in the state of Ohio. On August 31, 1989 he was suspended for a period of 30 days and required to complete 20 hours of continuing education in diagnosis and treatment planning of orthognathic surgery cases. If he desires to continue the practice of orthodontics as a general practitioner, he is required to complete at least 20 hour of CE in the field of orthodontics, with emphasis on treatment planning. Failure to do so within 12 months will result in a suspension of his license until he completes the required CE. Placed on probation with terms and conditions. If not compliant within 30 days license will be suspended. On May 3, 1994 Dr. Kilgore's license was suspended for 90 days and placed on probation for 5 years. On December 5, 1995 his license was suspended until December 1, 1996. Also responded positive to question #7: Have you ever had a malpractice judgment against you or settled any malpractice action? The first case was settled in 1987 for \$25,000 and the second case was settled in 1989 for \$32,500

**Board action:** A motion was made and seconded to deny Dr. Kilgore's license based upon the disciplinary action taken by the Ohio State Dental board.

HOLLAR/BURNS  
Motion carried 10-0-0

**2. Idalina Garcia, D.D.S.**

Dr. Garcia's application for dental licensure by endorsement was reviewed. Dr. Garcia is a 1991 graduate from Boston University and is currently licensed in the state of Illinois and holds expired licenses in New Hampshire and Massachusetts. She has taken and passed Part I and II of the National Boards and the North East Regional Board of Regional Dental Examiners in 1992. Dr. Garcia was reviewed by the Board regarding a positive response to the question that asks "Have you ever had a malpractice judgment against you or settled any malpractice action?" In a notarized affidavit, Dr. Garcia explained that in 2005 she settled a malpractice claim made by a patient regarding bridge work that had been referred to her by another dentist.

**Board action:** A motion was made and seconded to grant Dr. Garcia a dental license upon successful completion of the Indiana jurisprudence examination.

CATEY/NEWTON  
Motion carried 10-0-0

**C. Anesthesia and Sedation Permits**

There were no anesthesia permits to review.

**D. Dental Intern Permit**

**1. Robert D. Alderman, D.M.D.**

The dental intern permit renewal for Dr. Alderman was reviewed by the Board. This will be his fourth dental intern renewal. Dr. Alderman is currently a fourth year resident at Indiana University.

**Board action:** A motion was made and seconded to approve the dental intern permit renewal for Dr. Alderman.

ROKITA/LaTURNER  
Motion carried 10-0-0

#### **E. Mobile Dental Facility**

##### **1. Smile Care, LLC**

Dr. Schlang appeared before the Board, as requested, regarding his application for a mobile dental facility permit. Since his last appearance, he has set up a mobile x-ray machine, clarified that the dentist must sign the form to become a referral dentist and if there are multiple dentists in each practice each one must register separately. The dentist will then be placed on a referral list, sent a welcome/participation packet stating the dentist will need to sign up as a referral on a yearly basis, and a letter that explains who Smile Care is and that they will be reimbursed for any fees for procedures Smile Care has already performed if the dentist does them again. Dr. Schlang explained that after the initial visit with Smile Care, they will call the parent if it is of an urgent care nature and also send a letter. They will send a follow-up letter one (1) week later. For non-urgent care, they will send a letter after the initial visit with Smile Care and a follow-up letter will be sent out four (4) weeks later. Dr. Burns stated the Board is extremely pleased with the willingness of Smile Care, LLC to bring forth to the Board everything they have requested. Dr. Hollar asked and was granted permission to use the forms Dr. Schlang has come up with to model a procedure for new applicants to go by.

**Board action:** A motion was made and seconded to grant a mobile dental facility permit to Smile Care, LLC.

WHITMORE/LaTURNER  
Motion carried 10-0-0

#### **F. Instructors License**

There were no instructor's license applications to review.

#### **G. Professional Corporations**

There were no professional corporation applications to review.

#### **X. RENEWALS**

There were no renewal applications to review.

## **XI. PROBATIONARY/CONDITIONAL LICENSE REPORT**

### **1. Penelope Lynn Dunlap, D.D.S.**

Dr. Haller reviewed Dr. Dunlap's probationary file. Her reports from Joseph W. Hake, D.D.S., Monitor, for March and April 2010 were reviewed and accepted.

### **2. Marci L. Huth, L.D.H.**

Dr. Haller reviewed Ms. Huth's probationary file. Ms. Huth is currently not employed as a dental hygienist. She reported that her address had not changed, and the medication she is currently taking. Her report was reviewed and accepted. Ms. Huth has requested a hearing for lift of probation. This matter has been rescheduled for June 4, 2010.

### **3. Teresa M. Watkins, D.D.S.**

Dr. Haller reviewed Dr. Watkins' probationary file. Her reports from Charles Miller, D.D.S, work site monitor, for December 2009, January, February and March 2010 were reviewed and accepted.

**Board action:** A motion was made and seconded to approve the probationary reports for Dr. Dunlap, Ms. Huth and Dr. Watkins.

HALLER/CATEY  
Motion carried 10-0-0

## **XII. CONTINUING EDUCATION**

### **A. Angela Becker Orthodontics**

Dr. Newton reviewed the application for continuing education and deems everything to be in order.

**Board action:** A motion was made and seconded to approve the application for continuing education sponsor for Angela Becker Orthodontics.

NEWTON/HOLLAR  
Motion carried 10-0-0

## **XIII. REPORTS**

There were no reports before the Board.

## **XIV. ASSOCIATION REPORTS**

### **A. Indiana Dental Association**

There was no report before the Board.



**B. Indiana Dental Hygiene Association**

There was no report before the Board; however, the IDHA asked about the time constraints with the rule and is concerned that it is taking so long to be approved.

**C. Indiana Dental Assistants Association**

There was no report before the Board.

**XV. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Indiana State Board of Dentistry adjourned at 1:00 a.m., Saturday, May 8, 2010.

**Board action:** A motion was made and seconded to adjourn the meeting of the Indiana State Board of Dentistry at 1:00 a.m.

HOLLAR/LaTURNER  
Motion carried 10-0-0

  
Matthew Miller, D.D.S., President

10/1/10  
Date

  
Steven Hollar, D.D.S., Secretary

10/1/10  
Date